

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

FILED BY CLERK

JAN 11 2008

COURT OF APPEALS  
DIVISION TWO

THE STATE OF ARIZONA,

Appellee,

v.

DOREECE HADORN,

Appellant.

2 CA-CR 2007-0085

DEPARTMENT B

MEMORANDUM DECISION

Not for Publication

Rule 111, Rules of  
the Supreme Court

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR-20060690

Honorable Nanette M. Warner, Judge

AFFIRMED

R. Lamar Couser

Tucson  
Attorney for Appellant

E C K E R S T R O M, Presiding Judge.

¶1 Following a jury trial, appellant Doreece Hadorn was convicted of two counts of aggravated harassment. The trial court suspended the imposition of sentence and placed Hadorn on one year's probation. She appealed. Counsel filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967); *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969); and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999), asserting that he had thoroughly

reviewed the record but found no arguable issue for appeal. He asks this court to search the record for error. Hadorn has filed a supplemental brief raising various issues, none of which requires reversal.

### **Facts and Procedural Background**

¶2 Hadorn was originally charged with four counts of aggravated harassment and one count of endangerment. The first two harassment counts were severed for trial, and the remaining counts were dismissed following Hadorn’s conviction.

¶3 Prior to trial, Hadorn’s appointed counsel moved to withdraw on the ground that Hadorn wished to represent herself. Hadorn signed a waiver of counsel and, following a hearing, the trial court found she had knowingly, intelligently, and voluntarily waived her right to counsel.<sup>1</sup> The court partially granted counsel’s motion to withdraw but ordered counsel to “remain as advisory counsel.”

¶4 Thereafter, Hadorn successfully moved to modify the conditions of her release. She filed a motion to compel disclosure that appears to have been at least partially granted. However, she filed three motions to dismiss and a motion for change of judge and venue that were all denied. In the motion for change of judge and venue, Hadorn asked that “the entire Pima County Superior Court Bench be recused from hearing” her case due to a “possible

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<sup>1</sup>The state moved for an evaluation of Hadorn’s competency to stand trial and represent herself under Rule 11, Ariz. R. Crim. P. Over Hadorn’s objection, the trial court granted the state’s motion but, following its review of the mental health experts’ reports, found Hadorn competent for both purposes.

conflict of interest.” The motion was premised on Hadorn’s various claims that the court had become complicit in a long-standing conspiracy to deprive her of certain real property rights. Two of her motions to dismiss rested on similar allegations, and the other was based on an alleged violation of Rule 8, Ariz. R. Crim. P.

¶5 Hadorn attempted to challenge the denial of her third motion to dismiss and her motion for change of judge and venue by filing a notice of appeal the day before trial. Apparently believing that filing the notice of appeal deprived the trial court of jurisdiction, Hadorn did not appear at trial. After the court unsuccessfully attempted to contact Hadorn, the trial proceeded in her absence.

¶6 At trial, the victim testified he had experienced “noise problems from . . . upstairs,” beginning the day after he had moved into the housing unit below Hadorn’s residence. He described the problem as “beating and banging and cursing” that occurred “[a]lmost every day” and “went on for hours.” He called 911 on several occasions when he “couldn’t take it anymore.” Pima County Sheriff’s deputies who responded to the calls attempted several times to speak to Hadorn about the victim’s complaints but were unable to resolve the situation. Eventually, a deputy advised the victim to seek an injunction against harassment, which he did. A judge issued an injunction ordering Hadorn to “not make unreasonable noise by unnecessarily screaming, cursing, slamming windows or doors or stamping feet or dropping objects on [the] floor.” A sheriff’s deputy served Hadorn with the injunction on January 19, 2006. The next day, however, Hadorn again began “stomping and

ranting and raving and cussing and screaming and hollering and slamming the windows [and] doors . . . all day and all night.”

¶7 A deputy sheriff testified he had responded to the victim’s residence on January 20 and February 2, 2006. On both occasions, while standing in the victim’s living room he heard “loud . . . voices” from the residence above, and he described “banging [that] would make the apartment shake” and “the floor move.” The deputy testified that, in his “experience, [the noise] appeared as if it was just intentional . . . purposely banging on the floor of the apartment above.”

¶8 The victim testified he was “a nervous wreck and paranoid” as a result of the noise. He testified that Hadorn “could very easily [have] cause[d him] to have a heart attack.” He moved out of the apartment before his lease expired, telling the owner that he could not “deal” with the situation any longer and that it was “too traumatic.”

### **Discussion**

¶9 A person commits “harassment” by knowingly or intentionally committing repeatedly “an act or acts that harass another person.” A.R.S. § 13-2921(A)(3). A person commits aggravated harassment by harassing a victim within the meaning of § 13-2921 when “[a] court has issued an order of protection or an injunction against harassment against the person and in favor of the victim of harassment and the order or injunction has been served and is still valid.” A.R.S. § 13-2921.01(A)(1). In her supplemental brief, Hadorn does not directly contest the sufficiency of the evidence against her. She questions the credibility of

the witnesses. But witness credibility “is for the trier-of-fact to determine, not for an appellate court,” and we will not reverse a conviction merely because an appellant disagrees with the jury’s determinations. *Flanders v. Maricopa County*, 203 Ariz. 368, ¶ 56, 54 P.3d 837, 846 (App. 2002), citing *State v. Gallagher*, 169 Ariz. 202, 203, 818 P.2d 187, 188 (App. 1991).

¶10 Hadorn asserts that the trial court’s judgment is “void” because the entire case amounted to a “fraud upon the court[],” which she claims “lack[ed] jurisdiction from the onset of the action.” She appears to assert the same conspiracy theory she alleged in her motions to dismiss and motion for change of judge and venue described above. Her lengthy statement of facts includes allegations of wrongdoing and mistreatment by various people and entities, most of which are wholly irrelevant to the offenses of conviction here, and all of which are unsupported by the record in this case. To the extent we understand her arguments regarding the instant proceedings, Hadorn appears to contend that the prosecutor and trial judge committed misconduct, that the trial judge was biased against her, that the jury was tampered with, that her notice of appeal filed the day before trial divested the trial court of jurisdiction, and that the court violated her right to a speedy trial under Rule 8.

¶11 We find no merit to Hadorn’s claims of bias, misconduct, or jury tampering. There is simply no indication in the record that the trial judge was biased against Hadorn and no evidence that either the judge or the prosecutor committed any misconduct. Regarding her allegations of jury tampering, Hadorn’s next-door neighbor was called as a prospective

juror, but she was dismissed for cause and did not hear Hadorn's case. The juror Hadorn alleges had pretrial knowledge of the case did not answer affirmatively when the judge asked about such knowledge; she merely raised her hand to ask the judge to speak louder. Similarly, the juror Hadorn claims is related to one of the witnesses did not answer affirmatively when the court asked whether she knew any of the prospective witnesses. The fact she shares a very common last name with one of the witnesses does not warrant Hadorn's conclusion that she is related to him. Finally, the fact that all of the jury members were female is no indication of jury tampering or manipulation.

¶12 Hadorn's trial was held outside the general time limit set in Rule 8.2(a)(2), Ariz. R. Crim. P. Although certain delays in the proceedings were excluded under a proper Rule 8 calculation, *see* Rule 8.4(a), Ariz. R. Crim P. (excluding from computation of time limits "[d]elays occasioned by or on behalf of the defendant, including, but not limited to, delays caused by an examination and hearing to determine competency"), even assuming a Rule 8 violation occurred, Hadorn has not argued and the record does not show she suffered any prejudice from the violation. She was not in custody pending trial, and she has alleged no detriment to her defense as a result of delay. Absent a showing of prejudice, she is not entitled to reversal of her convictions on appeal. *See State v. Vasko*, 193 Ariz. 142, ¶ 26, 971 P.2d 189, 195 (App. 1998).

¶13 Nor did Hadorn's pretrial notice of appeal deprive the trial court of jurisdiction. As a general rule, "when an appeal to a higher court has been perfected, the

trial court loses all jurisdiction except for actions in furtherance of the appeal.” *In re Estate of Killen*, 188 Ariz. 569, 572, 937 P.2d 1375, 1378 (App. 1996), *citing State v. O’Connor*, 171 Ariz. 19, 21, 827 P.2d 480, 482 (App. 1992) (“A trial court may not render any decision that would defeat or usurp an appellate court’s jurisdiction of a case on appeal.”); *see also* Ariz. R. Crim. P. 31.11 (“No new matter, other than a petition for post-conviction relief not precluded under Rule 32.2, may be filed in the trial court by any party to an appeal later than 15 days after the record on appeal has been filed.”). In this case, Hadorn’s appeal was not perfected before trial. Rather, this court dismissed the appeal for lack of jurisdiction because Hadorn had attempted to appeal from an unappealable order. Because this court had not obtained jurisdiction over any issue in the case when Hadorn’s trial began, jurisdiction remained in the trial court.

¶14 Hadorn’s convictions and the trial court’s imposition of probation are affirmed.

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PETER J. ECKERSTROM, Presiding Judge

CONCURRING:

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PHILIP G. ESPINOSA, Judge

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GARYE L. VÁSQUEZ, Judge